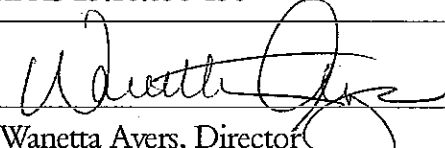


State of Alaska

Department of Labor and Workforce Development

Division: Business Partnerships	Policy: 1005 Final
Subject: Work Experience	Pages: 4
References: Title I of the Workforce Investment Act (WIA) of 1998; Federal Register 20 CFR 652 et al.; WIA; Final Rules (August 11, 2000); TEGL 14-08; WIA Law 129(c)(2)(D); WIA Law 181(a)(1); 29 CFR 37.6(f)(1); WIA Section 188, Disability Checklist; 29 CFR Part 37; Alaska Employment of Children AS 23.10.325-370; Labor and Workforce Development Industrial Welfare Child Labor 8 AAC 05.010-900; Alaska Labor and Workers' Compensation AS 23.10.050-150	Effective: 1/1/2014
	Revised: N/A
Approved:  Wanetta Ayers, Director	12/26/13 Date

1) Parties Affected

This policy applies to grant recipients that receive public funds through the Division of Business Partnerships (DBP).

2) Purpose

This policy provides the Division's grant recipients with guidance on providing work experience to adult, dislocated worker, and youth participants.

3) Definitions

- a. *Grant Recipient* – is the organization specified in a grant or Reimbursable Services Agreement (RSA) as the recipient of an award.
- b. *Work experience* – is a planned, structured learning experience that takes place in a workplace for a specified period of time. The intention of a work experience is to enable participants to explore career options and gain exposure to the working world and its requirements. Employers provide work experience primarily as a benefit for the participant rather than with the expectation of a direct benefit.
- c. *Stipend* – is usually a set amount given for participation in or completion of an activity, not to exceed Alaska's minimum wage.

4) **Policy**

The Division of Business Partnerships' grantees will comply with the requirements set forth in this policy.

5) **Requirements**

a. Work experience provides employment opportunities that link academic and occupational learning including:

- i. instruction in employability skills or generic workplace skills;
- ii. exposure to various aspects of an industry;
- iii. progressively more complex tasks;
- iv. internships and job shadowing;
- v. the integration of basic academic skills into work activities;
- vi. paid and unpaid community service; and
- vii. other elements designed to achieve the goals of work experience.

Work experience opportunities can be offered to individuals after an assessment indicates they would benefit from work maturity skill training or introduction to the typical work environment. Generally public sector employers and private non-profit and for-profit employers offer acceptable work experience placements. However, work experience placements cannot involve work in a casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, or occupations that may be prohibited for youth.

Participants placed in work experiences are generally considered trainees. The employer should not depend on the trainee's productivity to maintain or advance the profit margin or performance of the company or agency.

b. Fair Labor Standards Act (FLSA)

The provisions of the FLSA apply to all adult and youth participants engaged in a paid work experience, as do federal and state minimum wage laws. Under certain circumstances, FLSA regulations may apply only to the workplace portion, and not to the classroom portion of the youth employment opportunity. Questions regarding whether a participant is an employee or whether an employee's time spent in training is compensable can be answered by the USDOL Wage and Hour Division at 1.866.4.USWAGE, or at <http://www.dol.gov/whd/>.

c. Displacement of Employees

Participants engaged in a paid work experience cannot displace current employees. Participants should not be placed in a paid work experience when:

- i. a regular employee is on layoff from the same or any substantially equivalent job; or the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy with a work experience participant; or the job is created in a chain of command that infringes in any way on the promotional opportunities of currently employed workers;

- ii. the placement results in a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits, of any current employee (as of the date of the work experience participation); or,
 - iii. the placement impairs existing contracts for services or collective bargaining agreements. When a program or activity authorized under the grant covering the work experience would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.
- d. **Employment of Children**
 The grant recipient will follow the Alaska Statutes and Alaska Administrative Codes concerning youth 14-17 engaged in work experience. Youth participants should not be placed in a paid work experience when occupations or working conditions are prohibitive under AS 23.10.325-370 and 8 AAC 05.010-900. The Department reserves the right to monitor the employment and training activities of youth for compliance with the provisions of Alaska Statutes and Alaska Administrative Codes relating to the Employment of Children.
- e. **Unemployment Insurance (UI) Benefits**
 A participant receiving work experience training should not have unemployment insurance taxes deducted from their work experience wages as work experience is not considered "employment" for the purposes of qualifying for Unemployment Insurance Benefits, even though the participant might be on a regular payroll, receiving wages, and is considered employed under FLSA. Therefore, a participant completing a work experience and then filing for UI will not qualify for UI on the basis of the work experience. However, work experience wages and stipends are counted as earnings when a participant is currently on a UI claim, and this income has the potential to affect the amount and duration of the UI claim in the same manner as regular wages.
- f. **Wages for Work Experience**
 Participants are placed on regular payrolls for paid work experience and are compensated according to minimum wage standards, or are paid the prevailing wage of employees with similar training, experience, and skills for a similar occupation, as set by the employer. However, since work experiences are intended as trainee positions, wages do not typically exceed those for entry level employees. The employer of record will be responsible for FICA taxes and Workers Compensation insurance. The participant is responsible for applicable federal taxes.
- g. **Stipends for Work Experience**
 The Grant Recipient should determine whether to pay wages or provide stipends. Stipends can be offered in lieu of wages, or concurrently for the classroom training that complements a work experience. A stipend is usually a set amount given for participation in or completion of an activity. Stipends impact the withholding of taxes and unemployment compensation. Stipends may not exceed the Alaska minimum wage. According to IRS publications (citation), stipends are considered miscellaneous compensation and are taxable.

6) **Responsibilities**

a. Grant Recipients are responsible for:

- i. maintaining accurate documentation to track participants' hours;
 - ii. removing any participants from a worksite that has exhibited a pattern of failure or has regularly not met agreed upon requirements for the work experience participant;
 - iii. monitoring the worksite to ensure that the work experience complies with the terms of this policy and providing technical assistance to the employer to mitigate behavior or participant performance issues. Worksite monitoring will include:
 - a. appropriateness of work experience for participants;
 - b. quality of work experience in teaching good work habits and job skills;
 - c. quality of outcomes and other benefits to participants; and,
 - d. adequacy of work site supervision in assuring compliance to legal requirements and program goals; and
 - iv. responding to and correcting any findings identified by the Division during monitoring or technical assistance.
- b. Division staff will review the grant recipient's process for monitoring worksites for compliance with this policy and will visit a random sample of worksites to ensure monitoring practices are effective.